

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANGEL SULLIVAN-BLAKE and HORACE
CLAIBORNE, on behalf of themselves and
others similarly situated,

Plaintiffs,

v.

FEDEX GROUND PACKAGE SYSTEM, INC.,

Defendant.

CIVIL ACTION

No. 2:18-cv-01698-RJC

**DEFENDANT FEDEX GROUND PACKAGE SYSTEM, INC.'S MOTION TO DISMISS
NAMED PLAINTIFF ANGEL SULLIVAN-BLAKE WITH PREJUDICE AND TO
STRIKE HER AFFIDAVIT**

This is a Fair Labor Standards Act collective action alleging FedEx Ground is a “joint employer” of Plaintiffs and, in that role, engaged in overtime pay violations. Two named Plaintiffs, Angel Sullivan-Blake and Horace Claiborne, brought this action. Ms. Sullivan-Blake has failed to respond to interrogatories and requests for production served on October 15, 2019. On March 10, 2021, the Court ordered her to respond within 14 days. She has not complied.

Pursuant to Federal Rule of Civil Procedure 37(b)(2)(A), FedEx Ground moves to dismiss Ms. Sullivan-Blake with prejudice and to strike her affidavit filed in support of conditional collective certification. Rule 37(b)(2)(C) also requires an award to FedEx Ground of its reasonable expenses caused by her failure to comply with the Court’s order compelling her to respond to discovery, including attorneys’ fees.

Pursuant to the Court’s Standing Order on Civil Motions, FedEx Ground states that this motion has been discussed with all parties. While Plaintiffs agree that Ms. Sullivan-Blake should be dismissed, they believe it should be without prejudice, and FedEx Ground takes the position that it should be with prejudice. Plaintiffs also object to Ms. Sullivan-Blake’s affidavit being stricken.

A memorandum in support of this motion and a proposed order are being filed with this motion.

CERTIFICATE OF CONFERRAL

Pursuant to the Court’s Standing Order on Civil Motions, FedEx Ground states that all parties have made a reasonable effort to reach agreement on the issues raised by the motion but were unable to reach agreement. The Court held a telephone discovery conference on February 24, 2021, and invited this briefing if the parties could not resolve the issues.

Dated: March 25, 2021

Respectfully submitted,

/s/ Jessica G. Scott

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FedEx Ground Package System, Inc.

CERTIFICATE OF SERVICE (CM/ECF)

I HEREBY CERTIFY that on March 25, 2021, I electronically filed the foregoing **DEFENDANT FEDEX GROUND PACKAGE SYSTEM, INC.'S MOTION TO DISMISS NAMED PLAINTIFF ANGEL SULLIVAN-BLAKE WITH PREJUDICE AND TO STRIKE HER AFFIDAVIT** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following email addresses:

The following are those who are currently on the list to receive e-mail notices for this case.

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